

For Recording, Return To:

The Port of Portland  
P. O. Box 3529  
Portland, OR 97208  
121 NW Everett  
Portland, OR 97209

Send Tax Statement to:  
No change

USEPA SF



1285300

Recorded in the County of Multnomah, Oregon

C. Swick, Deputy Clerk

Total : 164.00

2001-178058 11/07/2001 11:36:01am ATLJH

F96	26	REC	SUR	DOR	OLIS	MRF99
130.00		3.00	10.00	1.00	20.00	

**TRUST DEED, SECURITY AGREEMENT,  
ASSIGNMENT OF LEASES AND RENTS, AND FIXTURE FILING**

**GRANTOR:** TIM RALSTON, an individual,, whose address is (b) [REDACTED],  
Portland, OR 97205

**TRUSTEE:** CHICAGO TITLE INSURANCE COMPANY OF OREGON, whose  
address is 888 SW Fifth Avenue Suite 930 Portland OR 97204

**BENEFICIARY:** THE PORT OF PORTLAND, a port district of the State of Oregon,  
whose address is 121 NW Everett, Portland, OR 97209

The tax account number for the real property subject to this instrument is R298553.

This TRUST DEED, ASSIGNMENT OF RENTS, SECURITY AGREEMENT, AND FIXTURE FILING (the "Trust Deed") is made as of the 7th day of November, 2001 by TIM RALSTON (the "Grantor"), to CHICAGO TITLE INSURANCE COMPANY OF OREGON (the "Trustee"), for the benefit of THE PORT OF PORTLAND (the "Beneficiary").

WHEREAS, just prior to the recordation of this Trust Deed, Grantor has purchased from the Beneficiary the real property described in attached **Exhibit 1** (the "Property"), pursuant to that Sale Agreement and Receipt for Earnest Money between the Beneficiary and RIVERSCAPE LLC, an Oregon limited liability company (the "Borrower"), dated August 11, 2000, as modified by Amendment No. 1 dated September 12, 2001 (together, the "Sale Agreement");

WHEREAS, the Borrower assigned its rights under the Sale Agreement as to the conveyance of the Property to Grantor;

WHEREAS, the Borrower is joining in below to be jointly and severally liable with Grantor as to the payment and performance of the Obligations as defined in Section 1.1;

WHEREAS, as a condition to the Beneficiary's conveyance of the Property to the Grantor, the Borrower has delivered to the Beneficiary a certain promissory note of even date herewith, executed by the Grantor Borrower and payable to the Beneficiary in the amount of FIVE HUNDRED TWENTY THOUSAND DOLLARS (\$520,000.00) (the "Note"); and

26

HEREAS, as a further condition to the Beneficiary's sale of the Property to the Grantor, the Beneficiary has required the Grantor to execute and deliver this Trust Deed to secure payment of Note.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and for the purpose of securing the Obligations described in Section 1.1, the Grantor irrevocably grants, bargains, sells, conveys, assigns, and transfers to the Trustee in trust for the benefit and security of the Beneficiary, with power of sale and right of entry and possession, all of the Grantor's right, title, and interest in and to the Property;

TOGETHER WITH all interests, estates, and rights that the Grantor now has or may acquire in the Property; (ii) any and all options, agreements, and contracts for the purchase or sale of all or any part or parts of the Property or interests in the Property; (iii) all easements, rights of way, and rights used in connection with the Property or as a means of access to the Property; and (iv) all tenements, hereditaments, and appurtenances in any manner belonging, relating, or pertaining to the Property; and

TOGETHER WITH all interests, estates, and rights of the Grantor, now owned or hereafter acquired, in and to any land lying within any streets, sidewalks, alleys, strips, and gores adjacent or used in connection therewith; and

TOGETHER WITH all rights, titles, and interests of the Grantor, now owned or hereafter acquired, in and to any and all buildings and other improvements of every nature now or hereafter located on the Property and all fixtures, machinery, equipment, and other personal property located on the Property or attached to, contained in, or used in any such buildings and other improvements, and all appurtenances and additions to and substitutions and replacements of the Property (all of the foregoing being collectively referred to below as the "Improvements");

TOGETHER WITH any and all mineral, oil and gas rights, air rights, development rights, water rights, water stock, and water service contracts, drainage rights, zoning rights, and other similar rights or interests that benefit or are appurtenant to the Property or the Improvements or both, and any of their proceeds; and

TOGETHER WITH all present and future rights in and to the trade name by which all or any portion of the Property and the Improvements are known; all books and records relating to the development and operation of all or any portion of the Property and the Improvements; all right, title, and interest of the Grantor in, to, and under all present and future plans, specifications, and contracts relating to the design, construction, management, or inspection of any Improvements; all rights, titles, and interests of the Grantor in and to all present and future licenses, permits, approvals, agreements with or from any municipal corporation, county, state, or other governmental or quasi-governmental entity or agency relating to the development, improvement, division, or use of all or any portion of the Property to the extent such trade names, licenses, permits, approvals, agreements are assignable by law; and all other general intangibles relating to the Property, Improvements, or their use and operation; and

TOGETHER WITH all rights of the Grantor in and to any escrow or withhold agreements, title insurance, surety bonds, warranties, management contracts, leasing and sales agreements, and service contracts that are in any way relevant to the ownership, development, improvement, management, sale, or use of all or any portion of the Property or any of the Improvements; and

### **1.3 Property**

The Grantor warrants that it holds good and merchantable title to the Property and any Improvements, free and clear of all liens, encumbrances, reservations, restrictions, easements, and adverse claims except those specifically listed in **Exhibit 2**. The Grantor covenants that it shall forever defend the Beneficiary's and the Trustee's rights under this Trust Deed against the adverse claims and demands of all persons.

### **1.4 Further Assurances; Filing; Refiling; Etc.**

The Grantor shall execute, acknowledge, and deliver, from time to time, such further instruments as the Beneficiary or the Trustee may require to accomplish the purposes of this Trust Deed. The Grantor, immediately on the execution and delivery of this Trust Deed, and thereafter from time to time, shall cause this Trust Deed, any supplemental security agreement, mortgage, or deed of trust and each instrument of further assurance, to be recorded and rerecorded in such manner and in such places as may be required by any present or future law in order to perfect, and continue perfected, the lien and estate of this Trust Deed. The Grantor shall pay all filing and recording fees, and all expenses incident to the execution, filing, recording, and acknowledgment of this Trust Deed; any security agreement, mortgage, or deed of trust supplemental hereto and any instrument of further assurance; and all federal, state, county, and municipal taxes, assessments and charges arising out of or in connection with the execution, delivery, filing, and recording of this Trust Deed, any supplemental security agreement, mortgage, or deed of trust and any instrument of further assurance.

### **1.5 Compliance with Laws**

The Grantor further represents, warrants, and covenants that: (i) the Property, if developed, has been developed, and all Improvements, if any, have been constructed and maintained, in full compliance with all applicable laws, statutes, ordinances, regulations, and codes of all federal, state, and local governments (collectively "Laws"), and all covenants, conditions, easements, and restrictions affecting the Property (collectively "Covenants"); and (ii) the Grantor and its operations on the Property currently comply, and will hereafter comply, in all material respects with all applicable Laws and Covenants.

### **1.6 Definitions; Environmental Covenants; Warranties and Compliance**

#### **1.6.1 Environmental Law**

"Environmental Law" shall be interpreted in the broadest sense to include any and all federal, state, or local laws, regulations, rules, permit terms, including but not limited to any stormwater pollution control requirements, codes and ordinances now or hereafter in effect, as the same may be amended from time to time, and applicable decisional law, which in any way governs materials, substances, regulated wastes, emissions, pollutants, animals or plants, noise, or products and/or relate to the protection of health, natural resources, safety or the environment.

#### **1.6.2 Hazardous Substance**

"Hazardous Substance" shall be interpreted in the broadest sense to include any and all materials, substances, emissions, pollutants or products defined or designated as hazardous, radioactive, dangerous, toxic, or regulated wastes and materials or any other similar term in or under any Environmental Law. Hazardous Substance shall also include, but not be limited to, fuels, petroleum and petroleum-derived products.

### **1.6.3 No Hazardous Substances**

The Grantor will not use, generate, manufacture, produce, store, release, discharge, or dispose of on, under or about the Property or the Property's groundwater, or transport to or from the Property, any Hazardous Substance and will not permit any other person to do so, except for such Hazardous Substances that may be used in the ordinary course of the Grantor's business and in compliance with all Environmental Laws, including but not limited to those relating to licensure, notice, and recordkeeping.

### **1.6.4 Maintain Property**

The Grantor will keep and maintain the Property in compliance with, and shall not cause or permit all or any portion of the Property, including groundwater, to be in violation of any Environmental Law.

### **1.6.5 Notice**

The Grantor shall give prompt written notice to the Beneficiary of: (i) any proceeding, inquiry, or notice by or from any governmental authority with respect to any alleged violation of any Environmental Law or the presence of any Hazardous Substance on the Property or the migration of any Hazardous Substance from or to other premises; (ii) all known claims made or threatened by any person against the Grantor or with respect to the Property or the Improvements relating to any loss or injury resulting from any Hazardous Substance or the violation of any Environmental Law; (iii) the existence of any Hazardous Substance on or about all or any portion of the Property; or (iv) the Grantor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could in the Grantor's judgment cause any restrictions on the ownership, occupancy, transferability, or use of the Property under any Environmental Law.

### **1.6.6 Reports**

The Grantor shall promptly provide to the Beneficiary copies of all reports, documents, and notices provided to or received from any agency administering any Environmental Laws. The Beneficiary shall have the right to join and participate, in its own name if it so elects, in any legal proceeding or action initiated with respect to the Property or the Improvements in connection with any Environmental Law and have its attorney fees in connection with such an action paid by the Grantor, if the Beneficiary determines that such participation is reasonably necessary to protect its interest in the Trust Property.

### **1.6.7 Environmental Assessments**

If at any time, the Beneficiary has reason to believe that any release, discharge, or disposal of any Hazardous Substance affecting the Property or the Improvements has occurred or is threatened, or if the Beneficiary has reason to believe that a violation of an Environmental Law has occurred or may occur with respect to the Property or the Improvements, the Beneficiary may require the Grantor to obtain or may itself obtain, at the Grantor's expense, an environmental assessment of such condition or threatened condition by a qualified environmental consultant. The Grantor shall promptly provide to the Beneficiary a complete copy of any environmental assessment obtained by the Grantor.

#### **1.6.8 Remediation**

If any investigation, site monitoring, containment, cleanup, removal, restoration, or other remedial work of any kind or nature (the "Remedial Work") is required under any applicable Environmental Law, any judicial order, or by any governmental agency or person because of, or in connection with, the current or future presence, suspected presence, release or suspected release of a Hazardous Substance on, under, or about all or any portion of the Property, or the contamination (whether presently existing or occurring after the date of this Trust Deed) of the buildings, facilities, soil, groundwater, surface water, air, or other elements on or under any other property as a result of Hazardous Substances emanating from the Property, the Grantor shall, within thirty (30) days after written demand by the Beneficiary for the Grantor's performance under this provision (or such shorter period of time as may be required under any applicable law, regulation, order, or agreement), commence and thereafter diligently prosecute to completion all such Remedial Work. All costs and expenses of such Remedial Work shall be paid by the Grantor including, without limitation, the Beneficiary's reasonable attorney fees and costs incurred in connection with monitoring or review of the legal aspects of such Remedial Work. If the Grantor shall fail to timely commence, or cause to be commenced, such Remedial Work, the Beneficiary may, but shall not be required to, cause such Remedial Work to be performed. In that event, all costs and expenses incurred in connection with the Remedial Work shall become part of the Obligations secured by this Trust Deed and shall bear interest until paid at the rate provided in the Note.

#### **1.6.9 Indemnification**

The Grantor shall hold the Beneficiary, its commissioners, directors, officers, employees, agents, successors, and assigns, harmless from, indemnify and reimburse them for, and defend them against any and all losses, damages, liens, costs, expenses, and liabilities directly or indirectly arising out of or attributable to any violation of any Environmental Law, any breach of the Grantor's warranties in Section 1.6, or the use, generation, manufacture, production, storage, release, threatened release, discharge, disposal, or presence of a Hazardous Substance on, under, or about the Property, including without limitation the costs of any required repair, cleanup, containment, or detoxification of the Property, the preparation and implementation of any closure, remedial or other required plans, attorney fees and costs (including but not limited to those incurred in any proceeding and in any review or appeal), fees, penalties, and fines. For purposes of this Section, the "Grantor" shall be deemed to include the Borrower, the Grantor and the Borrower's or the Grantor's successors, assigns and all their respective partners, officers, directors, agents, employees, invitees, licensees and/or contractors.

#### **1.6.10 Representations and Warranties**

The Grantor represents and warrants to the Beneficiary that: (i) neither the Property nor the Grantor is in violation of or subject to any existing, pending, or threatened investigation by any governmental authority under any Environmental Law; (ii) the Grantor has not and is not required by any Environmental Law to obtain any permit or license other than those it has obtained to construct or use the Improvements; (iii) to the best of the Grantor's knowledge, no Hazardous Substance has ever been used, generated, manufactured, produced, stored, released, discharged, or disposed of on, under, or about the Property in violation of any Environmental Law.

#### **1.6.11 Survival**

All representation, warranties, and covenants in Section 1.6 shall survive the satisfaction of the Obligations, the reconveyance of the Trust Property, or the foreclosure of this Trust Deed by any means.

#### **1.7 Maintenance and Improvements**

The Grantor shall not permit all or any part of the Improvements to be removed, demolished, or materially altered without the Beneficiary's prior written consent; provided, however, that the Grantor may remove, demolish, or materially alter such Improvements as become obsolete in the usual conduct of the Grantor's business, if the removal or material alteration does not materially detract from the operation of the Grantor's business and if all Improvements that are demolished or removed are promptly replaced with Improvements of like value and quality. The Grantor shall maintain every portion of the Property and the Improvements in good repair, working order, and condition, except for reasonable wear and tear, and shall at the Beneficiary's election restore, replace, or rebuild all or any part of the Improvements now or hereafter damaged or destroyed by any casualty (whether or not insured against or insurable) or affected by any Condemnation (as defined in Section 2). The Grantor shall not commit, permit, or suffer any waste, strip, or deterioration of the Trust Property.

#### **1.8 Liens**

The Grantor shall pay when due all claims for labor, materials, or supplies that if unpaid might become a lien on all or any portion of the Trust Property. The Grantor shall not create, or suffer, or permit to be created, any mortgage, deed of trust, lien, security interest, charge, or encumbrance on the Trust Property prior to, on a parity with, or subordinate to the lien of this Trust Deed.

#### **1.9 Impositions**

##### **1.9.1 Fees; Assessments**

The Grantor shall pay or cause to be paid, when due and before any fine, penalty, interest, or cost attaches, all taxes, assessments, fees, levies, and all other governmental and nongovernmental charges of every nature now or hereafter assessed or levied against any part of the Trust Property (including, without limitation, levies or charges resulting from Covenants), or on the lien or estate of the Beneficiary or the Trustee (collectively, the "Impositions"); provided, however, that if by law any such Imposition may be paid in installments, whether or not interest shall accrue on the unpaid balance, the Grantor may pay the same in installments, together with accrued interest on the unpaid balance, as the same become due, before any fine, penalty, or cost attaches.

##### **1.9.2 Liens**

The Grantor may, at its expense and after prior notice to the Beneficiary, contest by appropriate legal, administrative, or other proceedings conducted in good faith and with due diligence, the amount, validity, or application, in whole or in part, of any Imposition or lien on the Trust Property or any claim of any laborer, materialman, supplier, or vendor or lien, and may withhold payment of the same pending completion of such proceedings if permitted by law, provided that: (i) such proceedings shall suspend collection from the Trust Property; (ii) no part of or interest in the Trust Property will be sold, forfeited, or lost if the Grantor pays the amount

or satisfies the condition being contested, and the Grantor would have the opportunity to do so in the event of the Grantor's failure to prevail in the contest; (iii) neither the Beneficiary nor the Trustee shall, by virtue of such permitted contest, be exposed to any risk of liability for which the Grantor has not furnished additional security as provided in clause (iv); and (iv) the Grantor shall have furnished to the Beneficiary cash, corporate surety bond, or other additional security in respect of the claim being contested or the loss or damage that may result from the Grantor's failure to prevail in such contest in an amount sufficient to discharge the Imposition and all interest, costs, attorney fees, and other charges that may accrue in connection with the Imposition. The Grantor shall promptly satisfy any final judgment.

### **1.9.3 Proof of Payment**

The Grantor shall furnish to the Beneficiary, promptly on request, satisfactory evidence of the payment of all Impositions. The Beneficiary is hereby authorized to request and receive from the responsible governmental and nongovernmental personnel written statements with respect to the accrual and payment of all Impositions.

### **1.10 Books and Records; Inspection of the Property**

The Grantor shall keep complete and accurate records and books of account with respect to the Trust Property and its operation in accordance with generally accepted accounting principles consistently applied. The Grantor shall permit the Trustee, the Beneficiary, and their authorized representatives to enter and inspect the Property and the Improvements, and to examine and make copies or extracts of the records and books of account of the Grantor with respect to the Property and the Improvements, all at such reasonable times as the Beneficiary or the Trustee may choose.

### **1.11 Limitations of Use**

The Grantor shall not initiate, join in, or consent to any rezoning of the Property or any change in any Covenant or other public or private restrictions limiting or defining the uses that may be made of all or any part of the Property and the Improvements without the prior written consent of the Beneficiary.

### **1.12 Insurance**

#### **1.12.1 Property and Other Insurance**

The Grantor shall obtain and maintain in full force and effect during the term of this Trust Deed except as otherwise expressly stated: (i) during any construction on the Property, builder's risk coverage, workers' compensation, general liability including construction operations, contractor's pollution legal liability coverage, payment and performance bonds; (ii) after the construction of any improvements on the Property, all-risk property insurance including earthquake and flood coverage, together with endorsements for replacement cost, inflation adjustment, malicious mischief, and sprinkler damage coverages, all in amounts not less than the full replacement cost of all Improvements, without reduction for coinsurance; (iii) comprehensive general and automobile liability insurance, including liabilities assumed under contract, with limits, coverages, and risks insured acceptable to the Beneficiary, and in no event less than ONE MILLION DOLLARS (\$1,000,000.00) combined single limit coverage; (iv) workers compensation including employers' liability no less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00); and (v) unless the Beneficiary otherwise agrees in

writing, rent loss or business interruption insurance in an amount no less than the total annual rents provided for in all leases for the Trust Property. In addition, the Grantor shall obtain and maintain all such other insurance coverages, which at the time are commonly carried for similar property, in such amounts as the Beneficiary may require.

#### **1.12.2 Insurance Companies and Policies**

All insurance shall be written by a company or companies reasonably acceptable to the Beneficiary with a rating of A or better as provided in Best's Rating Guide; shall contain a long-form mortgagee clause in favor of the Beneficiary with loss proceeds under any policy payable to the Beneficiary, subject to the terms of this Trust Deed; shall require thirty (30) days' prior written notice to the Beneficiary of cancellation or reduction in coverage; shall contain waivers of subrogation and endorsements that no act or negligence of the Grantor or any occupant, and no occupancy or use of the Property for purposes more hazardous than permitted by the terms of the policy will affect the validity or enforceability of such insurance as against the Beneficiary; shall be in full force and effect on the date of this Trust Deed; and shall be accompanied by proof of premiums paid for the current policy year. The Beneficiary shall be named as additional insured on all liability policies. The Grantor shall forward to the Beneficiary, on request, certificates evidencing the coverages required under this Trust Deed and copies of all policies.

#### **1.12.3 Blanket Policy**

If a blanket policy is issued, a certified copy of such policy shall be furnished together with a certificate indicating that the Trust Property and the Beneficiary are insured under such policy in the proper designated amount.

#### **1.12.4 Insurance Proceeds**

All proceeds from any insurance on the Trust Property shall be used in accordance with the provisions of Section 1.14.

#### **1.13 Assignments of Policies on Foreclosure**

In the event of foreclosure of the lien of this Trust Deed or other transfer of title, or assignment of the Trust Property in whole or in part, all right, title, and interest of the Grantor in and to all policies of insurance procured under Section 1.12 shall inure to the benefit of and pass to the successors in interest of the Grantor or the purchaser or the Grantee of all or any part of the Trust Property.

#### **1.14 Casualty/Loss Restoration**

##### **1.14.1 Notice; Proof of Loss**

After the occurrence of any casualty to the Property, whether or not required to be insured against as provided in this Trust Deed, the Grantor shall give prompt written notice of the casualty to the Beneficiary, specifically describing the nature and cause of such casualty and the extent of the damage or destruction to the Trust Property. The Beneficiary may make proof of loss if it is not made promptly and to the Beneficiary's satisfaction by the Grantor.

The Grantor assigns to the Beneficiary all insurance proceeds that the Grantor may be entitled to receive with respect to any casualty. The Beneficiary may, at its sole option, apply the insurance proceeds to the reduction of the Obligations in such order as the Beneficiary



may determine, whether or not such obligations are then due, or apply all or any portion of the insurance proceeds to the cost of restoring and rebuilding the portion of the Trust Property that was damaged or destroyed. If the Beneficiary elects to apply the insurance proceeds to rebuilding and restoration, the Beneficiary shall be entitled to hold the proceeds, and the proceeds shall be released only on such terms and conditions as the Beneficiary shall require in its sole discretion, including but not limited to prior approval of plans and release of liens. No proceeds shall be released if the Grantor is in default under this Trust Deed.

#### **1.15 Actions to Protect Trust Property; Reserves**

If the Grantor shall fail to obtain the insurance required by Section 1.12, make the payments required by Section 1.9 (other than payments that the Grantor is contesting in accordance with Section 1.9.2), or perform or observe any of its other covenants or agreements under this Trust Deed, the Beneficiary may, without obligation to do so, obtain or pay the same or take other action that it deems appropriate to remedy such failure. All sums, including reasonable attorney fees, so expended or expended to maintain the lien or estate of this Trust Deed or its priority, or to protect or enforce any of the Beneficiary's rights, or to recover any indebtedness secured by this Trust Deed, shall be a lien on the Trust Property, shall be secured by this Trust Deed, and shall be paid by the Grantor on demand, together with interest at the rate provided in the Note. No payment or other action by the Beneficiary under this Section shall impair any other right or remedy available to the Beneficiary or constitute a waiver of any default.

Unless the Grantor provides the Beneficiary with evidence of the insurance coverage required by the Note, the Beneficiary may purchase insurance at the Grantor's expense to protect the Beneficiary's interest. This insurance may, but need not, also protect the Grantor's interest. If the Trust Property becomes damaged, the coverage the Beneficiary purchases may not pay any claim the Grantor makes or any claim made against the Grantor. The Grantor may later cancel this coverage by providing evidence that the Grantor has obtained property coverage elsewhere.

The Grantor is responsible for the cost of any insurance purchased by the Beneficiary. The cost of this insurance may be added to the Grantor's loan balance. If the cost is added to the Grantor's loan balance, the interest rate on the underlying loan will apply to this added amount. The effective date of coverage may be the date the Grantor's prior coverage lapsed or the date the Grantor failed to provide proof of coverage. The coverage the Beneficiary purchases may be considerably more expensive than insurance the Grantor can obtain on its own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

If the Grantor fails to promptly perform any of its obligations under Section 1.9 or 1.12 of this Trust Deed, the Beneficiary may require the Grantor thereafter to pay and maintain with the Beneficiary reserves for payment of such obligations. In that event, the Grantor shall pay to the Beneficiary each month a sum estimated by the Beneficiary to be sufficient to produce, at least twenty (20) days before due, an amount equal to the Impositions and/or insurance premiums. If the sums so paid are insufficient to satisfy any Imposition or insurance premium when due, the Grantor shall pay any deficiency to the Beneficiary on demand. The reserves may be commingled with the Beneficiary's other funds, and the Beneficiary shall not be required to pay interest to the Grantor on such reserves. The Beneficiary shall not hold the reserve in trust for

the Grantor, and the Beneficiary shall not be the agent of the Grantor for payment of the taxes and assessments required to be paid by the Grantor.

The following is provided pursuant to ORS 746.201:

---

#### WARNING

Unless you provide us with evidence of the insurance coverage as required by our contract or loan agreement, we may purchase insurance at your expense to protect our interest. This insurance may, but need not, also protect your interest. If the collateral becomes damaged, the coverage we purchase may not pay any claim you make or any claim made against you. You may later cancel this coverage by providing evidence that you have obtained property coverage elsewhere.

You are responsible for the cost of any insurance purchased by us. The cost of this insurance may be added to your contract or loan balance. If the cost is added to your contract or loan balance, the interest rate on the underlying contract or loan will apply to this added amount. The effective date of coverage may be the date your prior coverage lapsed or the date you failed to provide proof of coverage.

The coverage we purchase may be considerably more expensive than insurance you can obtain on your own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

---

#### 1.16 Estoppel Certificates

The Grantor, within ten (10) days of the request, shall furnish the Trustee and the Beneficiary a written statement, duly acknowledged, of the amount of the Obligations secured by this Trust Deed and whether any offsets or defenses exist against the Obligations. If the Grantor shall fail to furnish such a statement within the time allowed, the Beneficiary shall be authorized, as the Grantor's attorney-in-fact, to execute and deliver such statement. On request, the Grantor shall also use its best efforts to obtain and deliver to the Beneficiary a written certificate from each lessee of all or any portion of the Property that its lease is in effect, that there are no defaults by the lessor under the lease, and that rent is not paid more than thirty (30) days in advance.

#### 1.17 Financial Information

The Grantor shall furnish to the Beneficiary within ninety (90) days after the end of each of the Grantor's fiscal years a complete copy of the Grantor's financial statement for such year, audited or reviewed by a certified public accountant (including balance sheet, income statement, and statement of changes in financial position). The Grantor shall promptly furnish to the Beneficiary any and all such other financial information as the Beneficiary shall reasonably request from time to time.

## 2. CONDEMNATION

Should any part of or interest in the Trust Property be taken or damaged by reason of any public improvement, eminent domain, condemnation proceeding, or in any similar manner (a "Condemnation"), or should the Grantor receive any notice or other information regarding such action, the Grantor shall give immediate notice of such action to the Beneficiary.

The Beneficiary shall be entitled to all compensation, awards, and other payments or relief ("Condemnation Proceeds") up to the full amount of the Obligations, and shall be entitled, at its option, to commence, appear in, and prosecute any Condemnation proceeding in its own or the Grantor's name and make any compromise or settlement in connection with such Condemnation.

If the Trust Property is taken in its entirety by condemnation, all Obligations secured by this Trust Deed, at the Beneficiary's election, shall become immediately due and collectible.

The Beneficiary may, at its sole option, apply the Condemnation Proceeds to the reduction of the Obligations in such order as the Beneficiary may determine, or apply all or any portion of the Condemnation Proceeds to the cost of restoring and improving the remaining Trust Property. If the Beneficiary elects to apply the Condemnation Proceeds to restoration and improvement, the proceeds shall be held by the Beneficiary and shall be released only on such terms and conditions as the Beneficiary shall require in its sole discretion, including but not limited to prior approval of plans and release of liens. No Condemnation Proceeds shall be released if the Grantor is in default under this Trust Deed.

### **3. ASSIGNMENT OF LEASES, RENTS, ISSUES, AND PROFITS**

#### **3.1 Assignment**

The Grantor assigns and transfers to the Beneficiary (i) all leases, subleases, licenses, rental contracts, and other agreements, whether now existing or hereafter arising, and relating to the occupancy or use of all or any portion of the Trust Property, including all modifications, extensions, and renewals thereof (the "Leases"), and (ii) all rents, revenues, issues, profits, income, proceeds, and benefits derived from the Trust Property and the lease, rental, or license of all or any portion thereof, including but not limited to lease and security deposits (collectively, the "Rents"). This assignment is intended by the Grantor and the Beneficiary to create a present and unconditional assignment to the Beneficiary, subject only to the license set forth in Section 3.4.

#### **3.2 Rights of the Beneficiary**

Subject to the provisions of Section 3.4 giving the Grantor a revocable, limited license, the Beneficiary shall have the right, power, and authority to: (i) notify any and all tenants, renters, licensees, and other obligors under any of the Leases that the same have been assigned to the Beneficiary and that all Rents are to be paid directly to the Beneficiary, whether or not the Beneficiary shall have foreclosed or commenced foreclosure proceedings against the Trust Property, and whether or not the Beneficiary has taken possession of the Trust Property; (ii) discount, settle, compromise, release, or extend the time for payment of, any amounts owing under any of the Leases and any Rents, in whole or in part, on terms acceptable to the Beneficiary; (iii) collect and enforce payment of Rents and all provisions of the Leases, and to prosecute any action or proceeding, in the name of the Grantor or the Beneficiary, with respect to any and all Leases and Rents; and (iv) exercise any and all other rights and remedies of the lessor in connection with any of the Leases and Rents.

#### **3.3 Application of Receipts**

The Beneficiary shall have the right, power, and authority to use and apply any Rents received under this Trust Deed (i) for the payment of any and all costs and expenses incurred in connection with enforcing or defending the terms of this assignment or the rights of the

Beneficiary, and in collecting any Rents; and (ii) for the operation and maintenance of the Trust Property and the payment of all costs and expenses in connection therewith, including but not limited to the payment of utilities, taxes, assessments, governmental charges, and insurance. After the payment of all such costs and expenses, and after the Beneficiary shall have set up such reserves as it deems necessary in its sole discretion for the proper management of the Trust Property, the Beneficiary shall apply all remaining Rents collected and received by it to the reduction of the Obligations in such order as the Beneficiary shall determine. The exercise or failure by the Beneficiary to exercise any of the rights or powers granted in this assignment shall not constitute a waiver of default by the Grantor under this Trust Deed, the Note, or any of the other Obligation Documents.

### **3.4 License**

The Beneficiary hereby grants to the Grantor a revocable license to collect and receive the Rents. Such license may be revoked by the Beneficiary, without notice to the Grantor, on the occurrence of any event of default under this Trust Deed, including any default by the Grantor of its covenants in Section 3. Unless and until such license is revoked, the Grantor agrees to apply the proceeds of Rents to the payment of the Obligations and to the payment of taxes, assessments, governmental charges, insurance premiums, and other obligations in connection with the Trust Property, and to the maintenance of the Trust Property, before using such proceeds for any other purpose. The Grantor agrees to (i) observe and perform every obligation of the Grantor under the Leases; (ii) enforce or secure at its expense the performance of every obligation to be performed by any lessee or other party under the Leases; (iii) promptly give notice to the Beneficiary of any default by any such lessee or other party under any of the Leases, and promptly provide the Beneficiary a copy of any notice of default given to any such lessee or other party; (iv) not collect any Rents more than thirty (30) days in advance of the time when the same shall become due, or anticipate any other payments under the Leases, except for bona fide security deposits not in excess of an amount equal to two months' rent; (v) not further assign or hypothecate any of the Leases or Rents; (vi) except with the Beneficiary's prior written consent, not waive, release, or in any other manner discharge any lessee or other party from any of its obligations under any of the Leases; (vii) except with the Beneficiary's prior written consent, not modify or amend any of the Leases; (viii) except with the Beneficiary's prior written consent, not cancel, terminate, or accept surrender of any of the Leases unless the Grantor shall have entered into a Lease for the space to be vacated on terms at least as favorable to the Grantor, commencing within thirty (30) days after such cancellation, termination, or surrender; (ix) obtain the Beneficiary's prior written approval on the form and content of all future leases and any modifications of any present or future leases; (x) deliver copies of all present and future leases to the Beneficiary promptly; and (xi) appear in and defend, at the Grantor's sole cost and expense, any action or proceeding arising out of or in connection with the Leases or the Rents.

### **3.5 Limitation of the Beneficiary's Obligations**

Notwithstanding the assignment provided for in Section 3, the Beneficiary shall not be obligated to perform or discharge, and the Beneficiary does not undertake to perform or discharge, any obligation or liability with respect to the Leases or the Rents. This assignment shall not operate to place responsibility for the control, care, maintenance, or repair of the Trust Property on the Beneficiary, or to make the Beneficiary responsible for any condition of the Property. The Beneficiary shall be accountable to the Grantor only for the sums actually collected and received by the Beneficiary pursuant to this assignment. The Grantor shall hold

the Beneficiary fully harmless from, indemnify the Beneficiary for, and defend the Beneficiary against any and all claims, demands, liabilities, losses, damages, and expenses, including attorney fees, arising out of any of the Leases, with respect to any of the Rents, or in connection with any claim that may be asserted against the Beneficiary on account of this assignment or any obligation or undertaking alleged to arise therefrom.

### **3.6 Termination**

The assignment provided for in Section 3 shall continue in full force and effect until all the Obligations have been fully paid and satisfied. At such time, this assignment and the authority and powers herein granted by the Grantor to the Beneficiary shall cease and terminate.

### **3.7 Attorney-in-Fact**

The Grantor irrevocably constitutes and appoints the Beneficiary, and each of its officers, as its true and lawful attorney-in-fact, with power of substitution, to undertake and execute any and all of the rights, powers, and authorities described in Section 3 with the same force and effect as if undertaken or performed by the Grantor, and the Grantor ratifies and confirms any and all such actions that may be taken or omitted to be taken by the Beneficiary, its employees, agents, and attorneys.

## **4. SECURITY AGREEMENT AND FIXTURE FILING**

To secure the Obligations, the Grantor grants to the Beneficiary a security interest in the following: (i) the Trust Property to the extent the same is not encumbered by this Trust Deed as a first priority real estate lien; (ii) all personal property that is used or will be used in the construction of any Improvements on the Trust Property; (iii) all personal property that is now or will hereafter be placed on or in the Trust Property or the Improvements; (iv) all personal property that is derived from or used in connection with the use, occupancy, or enjoyment of the Trust Property; (v) all property defined in the Uniform Commercial Code as adopted in the state of Oregon, as accounts, equipment, fixtures, and general intangibles, to the extent the same are used at, or arise in connection with the ownership, maintenance, or operation of, the Trust Property; (vi) all causes of action, claims, security deposits, advance rental payments, utility deposits, refunds of fees or deposits paid to any governmental authority, refunds of taxes, and refunds of insurance premiums relating to the Trust Property; and (vii) all present and future attachments, accessions, amendments, replacements, additions, products, and proceeds of every nature of the foregoing. This Trust Deed shall constitute a security agreement and "fixture filing" under the Uniform Commercial Code-Secured Transactions statutes of the state of Oregon. The mailing address of the Grantor and the address of the Beneficiary from which information may be obtained are set forth in the cover sheet of this Trust Deed.

## **5. EVENTS OF DEFAULT; REMEDIES**

### **5.1 Events of Default**

Each of the following shall constitute an event of default under this Trust Deed and under each of the other Obligation Documents:

#### **5.1.1 Nonpayment**

Failure of the Grantor to pay the Note and any other Obligations on or before the due date.

### **5.1.2 Breach of Other Covenants**

Failure of the Grantor to perform or abide by any other covenant included in the Obligations, including without limitation those covenants in the Obligation Documents, including without limitation the Note, this Trust Deed, or in any other security agreements, agreements, and undertakings now existing or hereafter executed by the Grantor or the Borrower for the benefit of the Beneficiary.

### **5.1.3 Misinformation**

Falsity when made in any material respect of any representation, warranty, or information furnished by the Grantor, the Borrower or its agents to the Beneficiary in or in connection with any of the Obligations or the Sale Agreement.

### **5.1.4 Other Default**

The occurrence of any other event of default under the Note or any of the other Obligations.

### **5.1.5 Other Indebtedness, Secondary Financing**

The Grantor's default beyond the applicable grace periods in the payment of any other indebtedness owed by the Grantor or the Borrower to any person, if such indebtedness is secured by all or any portion of the Trust Property.

### **5.1.6 Bankruptcy**

The occurrence of any of the following with respect to the Grantor, the Borrower, any guarantor of the Obligations, or the then-owner of the Trust Property: (i) appointment of a receiver, liquidator, or the Trustee for any such party or any of its properties; (ii) adjudication as a bankrupt or insolvent; (iii) filing of any petition by or against any such party under any state or federal bankruptcy, reorganization, moratorium or insolvency law; (iv) institution of any proceeding for dissolution or liquidation; (v) inability to pay debts when due; (vi) any general assignment for the benefit of creditors; or (vii) abandonment of the Trust Property.

### **5.1.7 Transfer; Due on Sale; Due on Encumbrance**

Any sale, gift, conveyance, contract for conveyance, transfer, assignment, encumbrance, pledge, or grant of a security interest in all or any part of the Trust Property, or any interest therein, either voluntarily, involuntarily, or by the operation of law (a "Transfer"), without the Beneficiary's prior written consent, shall constitute an event of default. For the purpose of clarification, and without limiting the generality of the foregoing, the occurrence at any time of any sale, conveyance, assignment, or other transfer of, or the grant of a pledge of or security interest in, any shares of the capital stock of the Grantor shall be deemed to be a Transfer in violation of this paragraph. The provisions of this Section shall apply to each and every Transfer, regardless of whether or not the Beneficiary has consented or waived its rights in connection with any previous Transfer. The Beneficiary may attach such conditions to its consent under this Section as the Beneficiary may determine in its sole discretion, including without limitation an increase in the interest rate or the payment of transfer or assumption fees, and the payment of administrative and legal fees and costs incurred by the Beneficiary.

### **5.1.8 Certain Taxes**

**5.1.8.1** "State Tax" shall mean: (i) a specific tax on mortgages, trust deeds, secured indebtedness, or any part of the Obligations secured by this Trust Deed; (ii) a specific tax on the Grantor of property subject to a trust deed that the taxpayer is authorized or required to deduct from payments on the trust deed; (iii) a tax on property chargeable against the Beneficiary or the Trustee under a trust deed or holder of the note secured by the trust deed; (iv) a specific tax (other than an income tax or a gross receipts tax) on all or any portion of the Obligations or on payments of principal and interest made by the Grantor.

**5.1.8.2** If any State Tax is enacted after the date of this Trust Deed applicable to this Trust Deed, enactment of the State Tax shall constitute an event of default, unless the following conditions are met: (i) the Grantor may lawfully pay the tax or charge imposed by the State Tax without causing any resulting economic disadvantage or increase of tax to the Beneficiary or the Trustee, and (ii) the Grantor pays or agrees in writing to pay the tax or charge within thirty (30) days after notice from the Beneficiary or the Trustee that the State Tax has been enacted.

### **5.2 Remedies in Case of Default**

If an Event of Default shall occur, the Beneficiary or the Trustee may exercise any one or more of the following rights and remedies, in addition to any other remedies that may be available by law, in equity, or otherwise:

#### **5.2.1 Acceleration**

The Beneficiary may declare all or any portion of the Obligations immediately due and payable.

#### **5.2.2 Receiver**

The Beneficiary may have a receiver appointed for the Trust Property. The Beneficiary shall be entitled to the appointment of a receiver as a matter of right whether or not the apparent value of the Trust Property exceeds the amount of the indebtedness secured by this Trust Deed. Employment by the Trustee or the Beneficiary shall not disqualify a person from serving as receiver. The Grantor consents to the appointment of a receiver at the Beneficiary's option and waives any and all defenses to such an appointment.

#### **5.2.3 Possession**

The Beneficiary may, either through a receiver or as lender-in-possession, enter and take possession of all or any part of the Trust Property and use, operate, manage, and control it as the Beneficiary shall deem appropriate in its sole discretion. On request after an Event of Default, the Grantor shall peacefully relinquish possession and control of the Trust Property to the Beneficiary or any receiver appointed under this Trust Deed.

#### **5.2.4 Rents**

The Beneficiary may revoke the Grantor's right to collect the Rents, and may, either itself or through a receiver, collect the same. The Beneficiary shall not be deemed to be in possession of the Property solely by reason of exercise of the rights contained in this Section. If Rents are collected by the Beneficiary under this Section, the Grantor hereby irrevocably appoints the Beneficiary as the Grantor's attorney-in-fact, with power of substitution, to endorse

instruments received in payment thereof in the name of the Grantor and to negotiate such instruments and collect their proceeds. After payment of all Obligations, any remaining amounts shall be paid to the Grantor and this power shall terminate.

#### **5.2.5 Power of Sale**

The Beneficiary may direct the Trustee, and the Trustee shall be empowered, to foreclose the Property by advertisement and sale under applicable law.

#### **5.2.6 Foreclosure**

The Beneficiary may judicially foreclose this Trust Deed and obtain a judgment foreclosing the Grantor's interest in all or any part of the Property and giving the Beneficiary the right to collect any deficiency remaining due after disposition of the Trust Property.

#### **5.2.7 Fixtures and Personal Property**

With respect to any Improvements and other personal property subject to a security interest in favor of the Beneficiary, the Beneficiary may exercise any and all of the rights and remedies of a secured party under the Uniform Commercial Code.

#### **5.2.8 Abandonment**

The Beneficiary may abandon all or any portion of the Trust Property by written notice to the Grantor.

### **5.3 Sale**

In any sale under this Trust Deed or pursuant to any judgment, the Trust Property, to the extent permitted by law, may be sold as an entirety or in one or more parcels and in such order as the Beneficiary may elect, without regard to the right of the Grantor, any person claiming under the Grantor, or any guarantor or surety to the marshalling of assets. The purchaser at any such sale shall take title to the Trust Property or the part thereof so sold, free and clear of the estate of the Grantor, the purchaser being hereby discharged from all liability to see to the application of the purchase money. Any person, including the Beneficiary, its officers, agents, and employees, may purchase at any such sale. The Beneficiary and each of its officers are irrevocably appointed the Grantor's attorney-in-fact, with power of substitution, to make all appropriate transfers and deliveries of the Trust Property or any portions thereof so sold and, for that purpose, the Beneficiary and its officers may execute all appropriate instruments of transfer. Nevertheless, the Grantor shall ratify and confirm, or cause to be ratified and confirmed, any such sale or sales by executing and delivering, or by causing to be executed and delivered, to the Beneficiary or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of the Beneficiary, for such purpose.

### **5.4 Cumulative Remedies**

All remedies under this Trust Deed are cumulative and not exclusive. Any election to pursue one remedy shall not preclude the exercise of any other remedy. An election by the Beneficiary to cure under Section 1.15 or elsewhere under this Trust Deed shall not constitute a waiver of the default or of any of the remedies provided in this Trust Deed. No delay or omission in exercising any right or remedy shall impair the full exercise of that or any other right or remedy or constitute a waiver of the default.



## **5.5 Receiver or Trustee-in-Possession**

On taking possession of all or any part of the Trust Property, the Trustee, the Beneficiary, or a receiver may do the following.

### **5.5.1 Management**

Use, operate, manage, control, and conduct business with the Trust Property and make expenditures for such purposes and for such maintenance and Improvements as are deemed reasonably necessary.

### **5.5.2 Rents and Revenues**

Collect all rents, revenues, income, issues, and profits from the Trust Property and apply such sums to the reasonable expenses of use, operation, management, maintenance, and Improvements.

### **5.5.3 Construction**

At its option, complete any construction in progress on the Property, and in that connection pay bills, borrow funds, employ contractors, and make any changes in plans and specifications as it deems appropriate.

### **5.5.4 Additional Indebtedness**

If the revenues produced by the Trust Property are insufficient to pay expenses, the Beneficiary, the Trustee, or the receiver may borrow or advance such sums on such terms as it deems reasonably necessary for the purposes stated in this Section. All advances shall bear interest, unless otherwise provided, at the rate set forth in the Note, and repayment of such sums shall be secured by this Trust Deed.

## **5.6 Application of Proceeds**

All proceeds realized from the exercise of the rights and remedies under Section 5 shall be applied as follows:

### **5.6.1 Costs and Expenses**

To pay all costs of exercising such rights and remedies, including the costs of maintaining and preserving the Trust Property, the costs and expenses of any receiver or lender-in-possession, the costs of any sale, and the costs and expenses provided for in Section 6.7.

### **5.6.2 Indebtedness**

To pay all Obligations, in such order as the Beneficiary shall determine in its sole discretion.

### **5.6.3 Surplus**

The surplus, if any, remaining after satisfaction of all the Obligations shall be paid to the clerk of the court in the case of a judicial foreclosure proceeding, otherwise to the person or persons legally entitled to the surplus.

## **5.7 Deficiency**

No sale or other disposition of all or any part of the Trust Property pursuant to Section 5 shall be deemed to relieve the Grantor of any of the Obligations, except to the extent that the

proceeds are applied to the payment of such Obligations. If the proceeds of a sale, a collection, or other realization of or on the Trust Property are insufficient to cover the costs and expenses of such realization and the payment in full of the Obligations, the Grantor shall remain liable for any deficiency to the fullest extent permitted by law.

#### **5.8 Waiver of Stay, Extension, Moratorium, and Valuation Laws**

To the fullest extent permitted by law, the Grantor waives the benefit of any existing or future stay, extension, or moratorium law that may affect observance or performance of the provisions of this Trust Deed and any existing or future law providing for the valuation or appraisal of the Trust Property prior to any sale.

### **6. GENERAL PROVISIONS**

#### **6.1 Time Is of the Essence**

Time is of the essence with respect to all covenants and obligations of the Grantor under this Trust Deed.

#### **6.2 Reconveyance by the Trustee**

At any time on the request of the Beneficiary, payment of the Trustee's fees, if any, and presentation of this Trust Deed, without affecting liability of any persons for the payment of the Obligations, the Trustee may reconvey, without warranty, all or any part of the Trust Property. The Grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any facts shall be conclusive proof of the truthfulness thereof.

#### **6.3 Notice**

Except as otherwise provided in this Trust Deed, all notices pertaining to this Trust Deed shall be in writing and may be delivered by hand, or mailed by first-class, registered, or certified mail, return receipt requested, postage prepaid, and addressed to the appropriate party at its address set forth at the outset of this Trust Deed. Any party may change its address for such notices from time to time by notice to the other parties. Notices given by mail in accordance with this paragraph shall be deemed to have been given on the date of mailing; notices given by hand shall be deemed to have been given when actually received.

#### **6.4 Substitute Trustee**

In the event of dissolution or resignation of the Trustee, the Beneficiary may substitute one or more trustees to execute the trust hereby created, and the new trustee(s) shall succeed to all the powers and duties of the prior trustee(s).

#### **6.5 Trust Deed Binding on Successors and Assigns**

This Trust Deed shall be binding on and inure to the benefit of the successors and assigns of the Grantor, the Trustee, and the Beneficiary. If the Trust Property or any portion thereof shall at any time be vested in any person other than the Grantor, the Beneficiary shall have the right to deal with such successor regarding this Trust Deed, the Trust Property, and the Obligations in such manner as the Beneficiary deems appropriate in its sole discretion, without notice to or approval by the Grantor and without impairing the Grantor's liability for the Obligations.

## **6.6 Indemnity**

The Grantor shall hold the Beneficiary and the Trustee and their respective directors, officers, employees, agents, and attorneys, harmless from and indemnify them for any and all claims, demands, damages, liabilities, and expenses, including but not limited to attorney fees and court costs, arising out of or in connection with the Trustee's or the Beneficiary's interest under this Trust Deed, except the Grantor shall not be liable for acts performed by the Beneficiary or the Trustee in violation of applicable law.

## **6.7 Expenses and Attorney Fees**

If the Beneficiary refers any of the Obligations to a lawyer for collection or seeks legal advice following a default; if the Beneficiary is the prevailing party in any litigation instituted in connection with any of the Obligations; or if the Beneficiary or any other person initiates any judicial or nonjudicial action, suit, or proceeding in connection with any of the Obligations or the Trust Property (including but not limited to proceedings under federal bankruptcy law, eminent domain, under probate proceedings, or in connection with any state or federal tax lien), and a lawyer is employed by the Beneficiary to (i) appear in any such action, suit, or proceeding, or (ii) reclaim, seek relief from a judicial or statutory stay, sequester, protect, preserve, or enforce the Beneficiary's interests, then in any such event the Grantor shall pay reasonable attorney fees, costs, and expenses incurred by the Beneficiary or its lawyer in connection with the above-mentioned events or any appeals related to such events, including but not limited to costs incurred in searching records, the cost of title reports, and the cost of surveyors' reports. Such amounts shall be secured by this Trust Deed and, if not paid on demand, shall bear interest at the rate specified in the Note.

## **6.8 Applicable Law**

The Trust Deed and the validity, interpretation, performance, and enforcement of the Trust Deed shall be governed by the laws of the state of Oregon.

## **6.9 Captions**

The captions to the sections and paragraphs of this Trust Deed are included only for the convenience of the parties and shall not have the effect of defining, diminishing, or enlarging the rights of the parties or affecting the construction or interpretation of any portion of this Trust Deed.

## **6.10 Definition of Person**

As used in this Trust Deed, the word person shall mean any natural person, partnership, trust, corporation, or other legal entity of any nature.

## **6.11 Severability**

If any provision of this Trust Deed shall be held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Trust Deed, and such other provisions shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in the Trust Deed.

#### 6.12 Entire Agreement

This Trust Deed contains the entire agreement of the parties with respect to the Trust Property. No prior agreement, statement, or promise made by any party to this Trust Deed that is not contained herein shall be binding or valid.

#### 6.13 Commercial Property

The Grantor covenants and warrants that the Property and the Improvements are used by the Grantor exclusively for business and commercial purposes. The Grantor also covenants and warrants that the Property and the Improvements are not now, and at no time in the future will be, occupied as the principal residence of the Grantor, the Grantor's spouse, or the Grantor's minor or dependent child.

#### 6.14 Standard for Discretion

If this Trust Deed is silent on the standard for any consent, approval, determination, or similar discretionary action, the standard shall be sole and unfettered discretion as opposed to any standard of good faith, fairness, or reasonableness.

#### 6.15 ORS 93.040 Warning

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

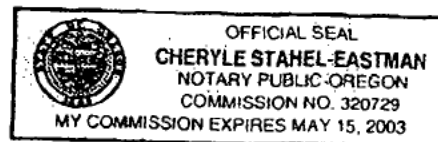
#### 6.16 No Conflict with Sale Documents

The provisions of this Trust Deed are in addition to, and do not modify, the provisions of the Sale Agreement and Receipt for Earnest Money between the Beneficiary and the Borrower dated August 11, 2000, as modified by Amendment No. 1 dated September 12, 2001.

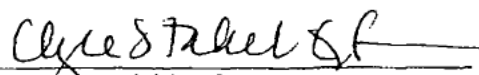
GRANTOR

  
TIM RALSTON

STATE OF OREGON )  
COUNTY OF MULTNOMAH )



On this 6 day of November, 2001, before me personally appeared TIM RALSTON and acknowledged the foregoing instrument to be his voluntary act and deed.

  
Notary Public for Oregon  
My Commission Expires: 5/15/03

21 - T-1 South Parcel 1 Trust Deed

\\POF5\PROPDEV-PVT\LEGAL\MISC\Riverscape TIS Trust  
Deed.doc

POPT1S200104

## GUARANTEE AND JOINDER BY THE BORROWER

Riverscape LLC hereby guarantees the full and complete performance by the Grantor of the foregoing Trust Deed and joins in the execution of the Trust Deed as the "Grantor" thereunder to the extent of any interest Riverscape LLC retains in the Property pursuant to the Sale Agreement.

RIVERSCAPE LLC, an Oregon limited liability Company

By: RALSTON INVESTMENTS, INC., an Oregon  
corporation, Managing Member

By: [Signature]  
Tim Ralston, President

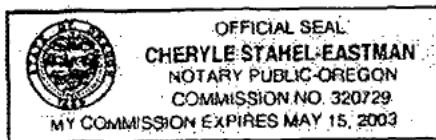
STATE OF OREGON )

COUNTY OF MULTNOMAH )

This instrument was acknowledged before me on November 6, 2001, by  
Tim Ralston, as President of RALSTON INVESTMENTS, INC., an Oregon corporation,  
Managing Member of RIVERSCAPE LLC, an Oregon limited liability company, on behalf of  
such company.

[Signature]  
Notary Public for Oregon

My Commission Expires: 5/15/03



## Exhibit 1

### LEGAL DESCRIPTION

A parcel of land lying above the line of ordinary high water, located in the Southwest one-quarter of Section 28, Township 1 North, Range 1 East, of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, more particularly described as follows:

All of Lots 11 and 12 and a portion of Lot 13 of the River Block of Watson's Addition to the City of Portland, being further described as follows:

Beginning at a point on the Northeasterly right-of-way of the NW Front Avenue at the most Southerly corner of Lot 11 of the River Block of Watson's Addition to the City of Portland, from which a found 5/8" iron rod with red plastic cap bears South 84°00'06" West a distance of 0.08 feet; thence North 41°03'58" East leaving said Northeasterly right-of-way line, along the dividing line and the extension thereof between Lots 10 and 11 of said Plat, a distance of 272.20 feet to a point on the ordinary high water line (OHWL) of the Willamette River as described in Book 2092, page 393, dated April 4, 1988 (17.0 feet Nation Geodetic Vertical Datum 1929-47), at the Riverside face of a concrete retaining wall; thence leaving said dividing line and the extension thereof between Lots 10 and 11, and running along the ordinary high water line along the Riverside face of a concrete retaining wall, North 42°27'00" West a distance of 278.09 feet; thence leaving said concrete wall and heading South 41°12'50" West 303.60 feet; thence along the Northeasterly right-of-way line of NW Front Avenue South 48°56'02" East a distance of 277.09 feet to the point of beginning.

**Together with** a parcel of land lying above the line of ordinary high water, located in the Southwest one-quarter of Section 28, Township 1 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, more particularly described as follows:

A portion of Lot 13 and a portion of Lot 14 of the River Block of Watson's Addition to the City of Portland, being further described as follows:

Beginning at a point on the Northeasterly right-of-way of the NW Front Avenue at the most southerly corner of Lot 11 of the River Block of Watson's Addition to the City of Portland, from which a found 5/8" iron rod with red plastic cap bears South 84°00'06" West of distance of 0.08 feet; hence North 41°03'58" East leaving said Northeasterly right-of-way line, along the dividing lien and the extension thereof between Lots 10 and 11 of said Plat, a distance of 272.20 feet to a point on the ordinary high water line (OHWL) of the Willamette River as described in Book 2092, Page 393, dated April 4, 1998 (17.0 feet Nation Geodetic Vertical Datum 1929-47), at the Riverside face of a concrete retaining wall; thence leaving said dividing line and the extension

Exhibit 1

Page 1 of 2

thereof between Lots 10 and 11, and running along the ordinary high water line along the riverside face of a concrete retaining wall, North 42°27'00" West a distance of 278.09 feet to the True Point of Beginning; thence continuing along said wall North 42°27'00" West 49.0 feet; thence leaving said concrete wall and heading South 41°03'58" West 309.13 feet; thence along the northeasterly right-of-way line of NW Front Avenue South 48°56'02" East a distance of 47.91 feet; thence North 41°12'50" East 303.60 feet to the True Point of Beginning.

**And further together with** a parcel of land lying above the line of ordinary high water, located in the Southwest one-quarter of Section 28, Township 1 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, more particularly described as follows:

All of Lot 15 and portions of Lots 14 and 16 of the River Block of Watson's addition to the City of Portland, being further described as follows:

Beginning at a point on the Northeasterly right-of-way of the NW Front Avenue at the most southerly corner of Lot 11 of the River Block of Watson's Addition to the City of Portland, from which a found 5/8" iron rod with red plastic cap bears South 84°00'06" West of distance of 0.08 feet; thence North 41°03'58" East leaving said Northeasterly right-of-way line, along the dividing lien and the extension thereof between Lots 10 and 11 of said Plat, a distance of 272.20 feet to a point on the ordinary high water line (OHWL) of the Willamette River as described in Book 2092, Page 393, dated April 4, 1998 (17.0 feet Nation Geodetic Vertical Datum 1929-47), at the Riverside face of a concrete retaining wall; thence leaving said dividing line and the extension thereof between Lots 10 and 11, and running along the ordinary high water line along the riverside face of a concrete retaining wall, North 42°27'00" West a distance of 327.09 feet to the True Point of Beginning; thence continuing along said wall North 42°27'00" West 212.6 feet; thence leaving said concrete wall and heading South 41°12'50" West 333.14 feet; thence along the northeasterly right-of-way line of NW Front Avenue South 48°56'02" East a distance of 212.10 feet; thence North 41°03'58" East 309.13 feet to the True Point of Beginning.

## Exhibit 2

### PERMITTED ENCUMBRANCES

1. Rights of the public and of governmental bodies in and to that portion of the premises herein described lying below the high water mark of the Willamette River.
2. Any adverse claims based upon the assertion that the Willamette River has changed in location.
3. Any adverse claim based on the assertion that any portion of said land has been created by artificial means or has accreted to such portions so created.
4. Rights established pursuant to ORS 274.905, et seq to all or any portion of the herein described premises created by artificial means.
5. Ownership of the State of Oregon lying below the high water mark of the Willamette River.
6. Spur tracts as revealed by the Multnomah County Assessors Map.
7. An easement created by instrument, including terms and provisions thereof:

Dated: January 17, 1968  
Recorded: February 6, 1968  
Book: 603  
Page: 1144  
In favor of: State of Oregon, by and through its State Highway Commission  
For: Construction, reconstruction, operation and maintenance of Highway Bridge Pier and Pier Footing

8. Covenants, conditions, restrictions and easement imposed by instrument, including the terms and provisions thereof:

Recorded: December 8, 1969  
Book: 710  
Page: 727

Exhibit 2  
Page 1 of 2



9. As easement created by instrument, including terms and provisions thereof:

Dated: September 24, 1971  
Recorded: December 13, 1971  
Book: 829  
Page: 309  
In favor of: City of Portland  
For: Sewers

10. The premises herein described were included within the boundaries of the River District  
Renewal Plan as revealed by instrument:

Recorded: November 19, 1998  
Recorder's Fee No.: 98211526

Amended by instrument:

Recorded: April 8, 1999  
Recorder's Fee No.: 99071635

11. An easement created by instrument, including terms and provisions thereof:

Dated: April 24, 1972  
Recorded: June 7, 1972  
Book: 861  
Page: 1296  
In Favor of: City of Portland  
For: Installing, maintaining or replacing a meter vault

12. Covenants, Conditions, restrictions and easements, as contained in LUR 98-01041 DZ:

Recorded: March 2, 1999  
Recorder's Fee No.: 99042638

Exhibit 2  
Page 2 of 2